

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**LETTERS PATENT APPEAL No. 1062 of 2002
In
SPECIAL CIVIL APPLICATION No. 6666 of 2002
With
CIVIL APPLICATION No. 8409 of 2002
In LETTERS PATENT APPEAL No. 1062 of 2002**

For Approval and Signature:

HONOURABLE THE ACTING CHIEF JUSTICE Y.R.MEENA

HONOURABLE MR.JUSTICE D.A.MEHTA

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
- 2 To be referred to the Reporter or not ?
- 3 Whether their Lordships wish to see the fair copy of the judgment ?
- 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
- 5 Whether it is to be circulated to the civil judge ?

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GUJARAT UNIVERSITY - Appellant(s)

Versus

BALGE SNEHAL & 4 - Respondent(s)

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Appearance :

MR MITUL K SHELAT for Appellant(s) : 1,
MR AMIT M PANCHAL for Respondent(s) : 1,
MR SP HASULKAR, AGP. for Respondent(s) : 2,4 - 5.
MR DC DAVE for Respondent(s) : 3,

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**HONOURABLE THE ACTING CHIEF JUSTICE
CORAM : Y.R.MEENA
and
HONOURABLE MR.JUSTICE D.A.MEHTA**

Date : 26/04/2006

ORAL JUDGMENT

(Per : HONOURABLE THE ACTING CHIEF JUSTICE Y.R.MEENA)

1 Heard the learned Counsel for the parties. The respondent filed the petition for taking the direction from this Court for admission in course of Master of Computer Application. Examination was conducted. He was not given admission though he secured Category Rank 121 Combined Rank 126 in the GCET-MCA 2002. The course was for two years . The Appellant was not made party eventhough the learned Single Judge has given direction to the appellant to admit the respondent. Against the operation of the impugned order of the learned Single Judge dated 1.10.2002 the appellant filed application for stay which was granted and the operation of the order of the learned Single Judge dated 1.10.2002 was also stayed till further orders. The case of the appellant was that the petitioner was not eligible for admission on the following grounds :

“(a) The Respondent No.1 is possessing a graduate qualification of an University other than Gujarat

University.

(b) The Respondent No.1 has not obtained the said degree under the 10+2+3 pattern since he appeared in his First Semester Examinations of Bachelors in Information Technology prior to clearing his HSC examination.

© That the Degree possessed by the petitioner was not recognised by the Gujarat University.

(d) That there was no reciprocal recognition between the Gujarat University and the Manipal Academy of Higher Education.

(e) Regulation RPGMCA. 1 of the Gujarat University provides that for admission to MCA course in the Gujarat University the candidate shall possess :-

'Bachelors' degree examination in 10+2+3 pattern, either in Science, Commerce or Management or Social Science or Engineering or equivalent with at least second class of this University or any other examination recognised equivalent thereto by this University'.

(f) Ordinance 70 of the Gujarat University provides that student migrating from jurisdiction of another University and seeking admission to the Gujarat University shall obtain a provisional eligibility certificate from the University. Such certificate is granted after examining that the course undertaken by the student is recognised by the University and is found equivalent to the similar course conducted by

the University.

(g) The degree possessed by the petitioner was not recognised by the University and the Equivalence Committee of the University consisting of Heads of Departments had found that the degree was not equivalent to the degree of the Gujarat University”.

2 The learned Counsel for the Appellant submits that the respondent was not eligible for admission in the course of Master of Computer Application which was for two years commencing from the year 2002 and that period is over. He further submits that the operation of the order of the learned Single Judge where direction for admission was given cannot be implemented now. Therefore, virtually there is no substance in the direction given by the learned Single Judge and that cannot be complied with.

3 When the respondent was not eligible for admission in the Master of Computer Application course which had commenced from 2002 for two years, now we are in 2006, no direction can be given even otherwise for admission in 2006 in that course. Even the appellant was not made a party by the respondent when the Writ Petition was filed. Considering these facts and the grounds given in paragraph No.4 of the memo of appeal we found substance in the appeal. The Appeal stands allowed

and consequently the impugned order of the learned Single Judge is set aside.

CIVIL APPLICATION No. 8409 of 2002.

In light of the order made in Appeal, this Civil Application having become infructuous is rejected as such.

(Y.R.MEENA, Actg.C.J)

(D.A.MEHTA, J)

m.m.bhatt